

City of Taylorsville
Planning Commission Meeting
Minutes
Tuesday – September 13 – 7:00 P.M.
2600 West Taylorsville Blvd – Council Chambers

Attendance:

Planning Commission

Kristie Overson, Chair
Blaine Smith
Ted Jensen
Scott Bolton
Angelo Calacino
Robert "Bip" Daniels
Joan Rushton-Carlson
Excused: Dama Barbour

Community Development Staff

Mark McGrath, Director
Michael Maloy, City Planner
Nick Norris, City Planner
Dan Udall, City Planner
Jean Gallegos, Secretary/Recorder

PUBLIC: Aimee Newton, Tami Larsen, Gary Gilgen, Dan Greenland, Trent Newbold, Natalie Yocky, Keith Huff, Ryan J. Baxter, Brandi Olsen, Greg Huntington, Wade Graves, Dave Atherley, Chris King, Randy Smith, Stephen G. Homer, Joshua Pettit, Jack Lucas, Chet Nichols, Priddy Oseguera, Scott Lundberg, Jon McGowan, Rod Lambert

[19:13:05](#)

WELCOME: **Commissioner Overson** welcomed those present, explained the procedures to be followed this evening and opened the meeting at 7:13 p.m. **Commissioner Overson** advised that Item #3 would be moved from the consent agenda and heard separately during regular session.

CONSENT AGENDA

1. **MINUTES:** Review/approval of Minutes for August 9, 2005.
2. 29H05 **Tami Larsen, 3320 West 5775 South** – Home Occupation - Pre-school. (Nick Norris/City Planner)
3. 30H05 **Natalie Yockey, 1641 West Allegheny Drive (6420 South) – Home Occupation - Personal Trainer. (Michael Maloy/City Planner) (Moved off Consent Agenda)**
4. 31C05 **Dan Greenland, 3292 W. Royalwood Drive (5200 South)** - Conditional Use Animal Hobby Permit for Three Dogs. (Nick Norris/City Planner)
5. 32C05 **Trent Newbold, 3435 West Ott Drive (4970 South)** - Conditional Use Permit for a detached accessory building. (Preliminary) (Nick Norris/City Planner)
6. 33C05 **Ryan and Shelli Baxter, 4247 South Bennion Road (1905 West)** – Conditional Use Animal Hobby Permit for Three Dogs. (Dan Udall/City Planner)
7. 36C05 **Randall Black, 2505 West Bennion Pines Court (5105 South)** – Conditional Use for an Accessory Building. (Preliminary) (Michael Maloy/City Planner)
8. 12S05 **Brandi Olsen, 4850 South 3400 West** – Two Lot Residential Subdivision. (Preliminary) (Nick Norris/City Planner) **[Amended by Motion]**

MOTION: [19:15:09 Commissioner Daniels](#) - I move for approval of the listed consent agenda items, minus #3.

SECOND: [Commissioner Calacino.](#)

[Commissioner Overson](#) - There is a motion by [Commissioner Daniels](#) and second by [Commissioner Calacino](#) to approve the consent agenda, omitting Agenda Item #3.

DISCUSSION: [19:15:47 Commissioner Jensen](#) – I would like to amend #8 so that it reads that trees are required in the park strip in the standard fashion which is 2" caliper, 25' on center. [Commissioner Daniels](#) - That amendment is acceptable. [Commissioner Calacino](#) – I agree.
VOTE: All Commissioners voted in favor. Consent Agenda passes unanimously.

HOME OCCUPATION

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| 3. 30H05 <u>Natalie Yockey, 1641 West Allegheny Drive (6420 South)</u> – Personal Trainer.
(Michael Maloy/City Planner) |
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3.1 **Mr. Maloy** oriented on the site plan, aerial map and images. [19:16:27](#) The reason the Planning Commission removed this item from the consent agenda was to discuss the proposed hours of operation with the applicant. The proposed hours, 5:00 a.m. to 9:00 p.m., Monday through Saturday, are outside the normal hours of operation for a home occupation. **Staff recommends approval with the following conditions:**

1. Receive approval from and remain compliant with all applicable reviewing departments and agencies of the City (i.e., City Building Official, Fire Marshal, Business Licensing, etc.).
2. Applicant must comply with all applicable regulations for a Home Occupation Class C Permit. (13.57.050 and 056).
3. **[Changed by Motion]** Hours of operations shall be limited to Monday – Saturday from ~~5:00~~ **6:00** AM to 9:00 PM.
4. Customer appointments at residence shall not exceed five per day. Customer appointments shall be scheduled, shall not overlap, and must be separated by 15 minute intervals.

3.1 **APPLICANT ADDRESS:** [19:18:13 Natalie Yockey](#) advised that she works at a gym and would do most of the training at the gym, however, would also go to client's homes. She advised the hours of operation coincide with those at the gym, with starting time of 5:00 a.m., however, she had no problem with starting at 6:00 a.m.

3.2 **SPEAKING:** None.

3.3 **CLOSED FOR DISCUSSION OR A MOTION:**

- 3.4 **MOTION:** [Commissioner Rushton-Carlson](#) - I move for approval of File 30H05, with staff's recommendations and including a change in the start time from 5:00 a.m. to 6:00 a.m.
SECOND: [19:20:16 Commissioner Jensen](#)
VOTE: All Commissioners voted in favor. Motion passes unanimously.

CONDITIONAL USES

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| 9. 34C05 <u>Richard Mortensen, 6134 South Jordan Canal Road</u> – Detached Accessory Building. (Preliminary). (Michael Maloy/City Planner) |
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[19:20:39](#)

9.1 **Mr. Maloy** oriented on the site plan, aerial map and images. Mr. Mortensen has requested approval to construct a 2,100 square foot detached accessory structure on a 21,691 square foot parcel (.497 of an acre). Currently the property contains a two-story red brick single-family residence with an attached garage. The applicant intends to use the proposed accessory structure for storage of antique cars. **Staff recommends preliminary approval with the following conditions:** Alteration of proposed plan for adequate setback may be required.

[19:22:59](#)

1. Receive approval from all applicable divisions and agencies of the City such as the City Engineer, Building Division, Unified Fire Authority, etc.
2. Building plans must be drawn to scale and include accurate dimensions of proposed height, size and setbacks to ensure compliance with all applicable regulations.
3. Applicant shall provide location of all easements and existing utilities. Proposed location of accessory structure must not conflict with existing easements and utilities.
4. **[Changed by Motion]** Accessory structure shall not exceed ~~16-~~ **19** feet in height when measured from the lowest point of grade to the mid-point of roof.

5. Accessory structure(s) shall not exceed 25% coverage of rear yard. (Coverage is determined by using the sum area of all accessory structures).
6. Accessory structure design shall be architecturally compatible with the main structure including roof patterns, soffit construction, cornice detail, windows, light fixtures, fascia materials and colors.
7. Provide a utility plan for the accessory structure. Electrical connection to garage shall be properly located below grade compliant with City building codes.
8. Applicant shall submit a grading and drainage plan to the City for review and approval by the City Engineer. Construction of accessory structure must not divert drainage to neighboring lots. All site drainage shall have a positive flow to an approved point of discharge.
9. Design of drive approach and drive way shall be compliant with City Code 14.12.110.
10. Accessory structure shall not be used for commercial purposes.
11. Accessory structure shall not be used for residential occupancy.
12. Accessory structure must be constructed as approved by the City. Any variation from the approved plans may result in permit revocation if not resolved to the satisfaction of the City.
13. Under the direction of the Planning Commission, staff shall administrate final review.

9.2 **APPLICANT ADDRESS:** [19:24:37](#) **Richard Mortensen** was present and advised that this structure would only be used for storage of antique cars. He had read staff's recommendations and was in agreement with conditions cited therein. [19:26:15](#)

9.3 **SPEAKING:** None.

9.4 **CLOSED FOR DISCUSSION AND OR MOTION:** [19:26:43](#) **Commissioner Calacino** – Point of Clarification – Staff Recommendation #4 says that height shall not exceed 16' and I think it is meant to be 19'.

MOTION: **Commissioner Calacino** – I move for approval of Application 34C05 for the oversized accessory building based on findings of fact and conditions listed in the staff report and oral testimony. I don't believe the existing accessory building will compromise the lot coverage but if found to be so, then that issue should be addressed to bring it into compliance.

SECOND: **Commissioner Daniels.**

Commissioner Overson [19:27:39](#) – There is a motion by Commissioner Calacino and second by Commissioner Daniels to approve CUP 34C05 with staff recommendations, noting that Recommendation #4 should read not exceed 19' instead of 16'.

DISCUSSION: **Commissioner Jensen** [19:27:54](#) - Are we okay with the setback on the side? **Commissioner Rushton-Carlson** – What about the right of way? **Commissioner Calacino** – I can offer comment on both of those issues: (1) You can't build over the easements; (2) The applicant would just need to move the structure slightly to the south to comply with the 3' setback from the east property line. I think staff can cover that. [19:28:23](#)

VOTE: All Commissioners voted in favor. Motion passes unanimously.

MOTION: **Commissioner Calacino** - Madam Chair, there are a couple of items on the agenda that I think might be simple to get through and I would like to make a motion to move them forward and then do the remaining items which will involve significant discussion to later. I would propose to hear Item #12 (Animal Hobby Permit), Item #14 (Three Lot Subdivision Amendment), and Item #16 (Deep Lot). [19:29:25](#)

SECOND: **Commissioner Daniels**

Commissioner Overson - We have a motion by Commissioner Calacino and second by Commissioner Daniels to hear Item #12 next, followed by #14, followed by #16 before we proceed with the rest of the agenda. **Mr. Udall** - Madam Chair, the applicant for #14 is not here yet. **Commissioner Calacino** - I will amend that to hear Item #14 after #16. **Commissioner Daniels** - Agree.

VOTE: All Commissioners voted in favor. Motion passes unanimously.

10. 35C05	Joshua Pettit, 6210 South 3200 West – 5 Bay Car Wash (Preliminary). (Nick Norris/City Planner)
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[20:07:54](#)

10.1 **Mr. Norris** oriented on the site plan, aerial map and images. The applicant is proposing a new self-serve car wash consisting of two automatic wash bays and three self-serve wash bays. Access to the 0.6 acre property would be off of 3200 West. The property slopes to the south and west. A similar application for this site was submitted in 2004, which was denied by the Planning Commission. Taylorsville does not have an ordinance that prohibits reapplication for a Conditional Use Permit that has not been approved. This application should be treated as a new application and should be judged on its own merits. The Planning Commission can use any information that is provided to them by staff, the applicant and agents of the applicant and the public to make a decision on this application. **Staff recommendations:** The Planning Commission has three choices on this item. (1) The Commission can continue the item and request more information if it is determined that an informed decision cannot be made based on the information provided. (2) The second option is to deny the application. A recent change to State Statute (10-9a-507) requires all Conditional Uses be approved unless there is some negative impact on the community that cannot be mitigated.

State Statute 10-9a-507 paragraph 2:

a. A conditional use shall be approved if reasonable conditions are proposed or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

b. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

The Planning Commission must state their reasons for denial and those reasons must fulfill the requirements of state law, i.e., the detrimental impacts of the proposal cannot be substantially mitigated by placing reasonable conditions on the approval. The reasons for denial should be tied to Ordinance 13.50.090 and clearly stated.

(3) The third option is to grant preliminary approval and require the applicant to submit more information, particularly to address the concerns of the City Engineer. **If the Planning Commission chooses to recommend preliminary approval, staff recommends that the Planning Commission preliminarily approve the application as proposed with the following conditions:**

1. That the applicant receives approval and complies with the requirements of all applicable agencies.
2. That a detailed landscaping plan, including species type, size at maturity and size at planting be submitted prior to final approval. The plan should include species that are conducive to the local environment and are of appropriate size for the location of where they will be planted.
3. That the retaining wall located along the southwest property line be heavily landscaped with 2 ½ inch caliper trees and mature shrubs to mitigate the visual impact on the adjacent residential neighborhood and to further reduce the impact of noise and light.
4. That an automatic sprinkler system be installed to irrigate all of the landscaped areas, including the tiered retaining wall to insure that all landscaping can survive and fulfill its purpose of mitigating the negative impacts of this use.
5. That a 6 foot solid barrier fence be placed on the south and west sides of the drive aisle to mitigate the impacts of noise and light.
6. That a detailed grading plan be submitted that includes the slope of the sidewalk on 3200 West, the drive approach and how the site will slope after all of the improvements are made to the site.
7. That all lighting fixtures that are to be used are architecturally compatible with the building and that all lighting is directed away from the residential neighborhood.
8. That the bollard that is placed within the drive aisle on the west side of the car wash be removed from the drive aisle to comply with the requirements of the Unified Fire Authority.
9. That all sidewalks, roadways and parking areas be constructed to Taylorsville City standards.
10. That all storm drainage plans be approved by the Taylorsville City Engineer.
11. That all permits be obtained, a bond posted for all work that is done in the public right-of-way and all work shall be approved by Taylorsville City.
12. That the decibel levels of the proposed equipment be submitted to the City to insure that the noise levels at the property line meet the minimum requirements of City Ordinances.
13. That the park strip along 3200 West be landscaped in a manner that is consistent with the landscaping on 6200 South, including the same species of tree with a caliper of 2 ½ inches.
14. That the dumpster enclosure is constructed of similar materials as the main building.

15. That a traffic study that includes sight lines, peak use of the car wash, anticipated number of stacked vehicles and any other information required by the City Engineer be submitted and receive approval from the City Engineer.
16. That a proposed sign package be submitted to the City prior to final approval.
17. That final approval is granted by the Planning Commission.

Mr. Norris reiterated that per 13.50.090, the Planning Commission shall not authorize a conditional use permit unless the evidence presented is such as to establish:

1. The proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood and the community; and
2. Such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; and
3. The proposed use will comply with the regulations and conditions specified in this title for such use; and
4. The proposed use will conform to the intent of the city general plan. [20:13:42](#)

10.2 **APPLICANT ADDRESS:** Joshua Pettit. [20:15:57](#) Mr. Pettit read the following letter into the record: "Thank you for the opportunity of addressing this Planning Commission. I come before you today to discuss the matter of a car wash located at the corner of 6200 South and 3200 West. You have seen much of the information provided here before and I would like to give you a brief history on why we are once again coming before you on this matter concerning preliminary conditional use. Over a year ago as we stood in the lobby of this building regarding a different matter, the City approached us and requested that we submit a proposal for a car wash at this location. We did so. The proposal was accepted and we proceeded through the process prescribed by the City to ascertain permits to build this facility. We were approved for a rezone to the C-2 zoning, required for a car wash facility and understood this was an expensive and difficult property to develop. We moved forward in good faith, hiring esteemed engineers and architects willing and able to tackle the challenge that this site set forth. At our first Planning Commission conditional use meeting, the Commission required additional information before they felt they could pass a recommendation on this property. We, at great expense to us, retained engineers for additional studies and drawings and provided this information to the Taylorville Planning Department Staff for their distribution and review as this Commission requested. The Staff at that time reviewed the information and put forth a positive recommendation for approval of this project. We know that approval did not come at the forthcoming Planning Commission meeting and we did not receive specific site conditions that required remedies. To be blunt, it was unclear exactly why the request was denied as our engineers and the City Staff review both suggested a positive outcome. Mid-May of this year, while in the City on an unrelated project, a City staff member asked us if we were familiar with the changes in the State Law that had taken place that month. We asked them to explain how the City viewed those changes in State Law. Their statements concur with our counsel's interpretation of that law. The City has once again entered into a contract in good faith to sell us the property presently under scrutiny. We understand that staff changes have created a situation where some people may be unfamiliar with the reports and engineering previously provided at the Planning Commission's request. We have retained professionals, licensed in the State of Utah, related to the specific question that the new staff may have and would welcome the opportunity of having a condition of final approval be that all concerns enumerated by staff and this Commission be addressed. We would like to make clear that we have followed the City's direction at every step, from the submittal of proposal over a year ago to this date. We have expended vast amounts of time and money in order to comply with requests made by the City and its' Staff and Commission and anticipate a much larger investment moving forward into the future. If we cannot make this the finest facility possible, we would have no desire to move forward. We have provided all of the additional information previously requested by this Planning Commission and approved by the previous staff and have read the staff report and are willing to have all the conditions enumerated as conditions for our final site plan approval. We have our engineer of record present and it is his belief that with the appropriate professional assistance, we can provide answers to all of these issues for final approval. We want to emphasize that we have not come here for a final site plan approval but to hear the conditions under which that approval might be ascertained. Thank you for your consideration."

10.3 **SPEAKING IN OPPOSITION:**

1. Randy Smith. [20:20:42](#) Mr. Smith lives southwest of this location and has been at odds with any development on the corner because it presents a very dangerous condition, especially with one entrance on 3200 West as proposed. He perceived people driving through his subdivision to access this site. He commented he has never seen a car wash that didn't have trouble with water dripping and

in the winter time it would be very dangerous when that water freezes. He also opposed this due to the elevation to the rear of the neighborhood being very steep, making their view to be the back of a wall.

2. **Chris King.** [20:22:50](#) **Mr. King** advised this borders his back yard and there previously was a ditch back there. The 6' retaining wall would be right at his fence line and would take away all his privacy. He was concerned that this drainage from this car wash would go into his yard. He was worried that there is no approach lane proposed for that entrance, which makes it even more dangerous in that traffic coming through the intersection will have to stop quickly. **Mr. King** did not want this use because it would break up his view of the skyline, along with the noise and safety factors.
3. **Dave Atherley.** [20:27:51](#) **Mr. Atherley's** concern was with the noise throughout the neighborhood generated by this car wash and vacuums. He also commented on the safety issues at the intersection because traffic coming up the hill cannot be seen from this location.
4. **Wade Graves.** [20:28:43](#) **Mr. Graves** advised that his property abuts this site. That last year when this came before the Commission the neighbors all addressed the safety issues. He wondered where the water from the car wash, rain, snow, etc., was going to drain to. He cited some other projects where the same type of blocks as have been proposed by these developers were used and they are already starting to erode. He proposed zoning the property agricultural and using the Boy Scouts to make this a nice green space and maintain it as a community project. He felt that would make a beautiful entrance to Taylorsville City and would be a more appropriate use on this site
5. **Aimee Newton.** [20:33:44](#) **Mrs. Newton** had issues with the dangerous traffic situation and safety, especially for the children. She lives in Ivory Highlands and all the residents there are concerned about a safe walking route along 3200 West. She recognized that the developers have spent a lot of money on this project and wondered if they had been given promises that the City could not follow through on.
6. **Rick Kitchens.** [20:36:39](#) **Mr. Kitchens** noted that there are new members on the Commission and hoped that they would take the time to review the notes about this project from last year when this began. He felt the car wash is too close to their back yards and the impact of noise and change in site line would not be tolerable. He too was in favor of establishing a green space on this site as a gateway to Taylorsville.
7. **John McGowan.** [20:39:51](#) **Mr. McGowan** lives west of the proposed site and made it clear that he does not want a car wash there. He was very much in favor of the proposal for green space and would be willing to do his share of the upkeep. He was upset that the same use is being discussed again after having been disapproved. He wanted to know how many signatures were needed on how many petitions to get the message across that the neighbors do not want a car wash on this site. **Commissioner Overson** advised there are no minimums or maximums involved with the neighbor's rights to submit petitions. She suggested that he stay involved and attend the meetings and perhaps contact his elected official and voice his concern [20:41:56](#)

SPEAKING IN FAVOR:

8. **STEVE PALMER** (Attorney at Law). [20:42:42](#) **Mr. Palmer** felt that most of the concerns were because the neighbors just did not want this in their back yard, period and asked that the Commissioners consider that aspect when making their decision this evening. Staff identified the four criteria the Commission is allowed to consider in their decision and that along with the long list of staff conditions, covers most situations. Due to the new State Statute regarding the four criteria, there doesn't seem to be any reason to deny this applicant the conditional use permit.

10.4 **DISCUSSION:**

1. **Commissioner Overson** asked Gordon Haight, the Taylorsville City Engineer, to address the 6200 South issue. **Mr. Haight** advised that in the staff report, he had indicated that the traffic study is not adequate to support the plan at this point, however, that there was probably mitigating engineering that could be done to look at the site distance. In his opinion, that is the most significant problem with this site. In doing that, he recommended that one possibility might be to look at an access for "in only" off of 3200 West and an "exit only – right-in/right-out" on 6200 South.

2. **Commissioner Rushton-Carlson** asked if there were any obstructions in getting access from 6200 South. [20:48:23](#) **Mr. Haight** said that there is one in that there is a deed restriction for access onto 6200 South. The road is owned by the City and the City Council can modify that deed restriction.
 3. **Commissioner Jensen** [20:49:24](#) wanted to know if there were any limitation on how close the entrance can be to the intersection. **Mr. Haight** answered in the affirmative that it varies on factors, i.e., an acceleration or deceleration lane, etc., and it depends on what design is put forward. [20:50:09](#) The goal is to have the access as far away from the intersection as possible. **Commissioner Rushton-Carlson** asked if there were room on that road to put in an additional lane and **Mr. Haight** informed her that would cut into the developer's property and they would have to donate more of their land to the City for that purpose.
 4. **Commissioner Overson** [20:50:49](#) asked if the traffic study was accurate and **Mr. Haight** replied that as far as numbers for counts is concerned, it was. [20:51:05](#) His concern with it is that it does not have enough accurate information and needs to refine recommendations to be very specific and shows what a professional engineer is saying as to how the plan meets the requirements. He felt there needs to be an addendum made to the original study submitted by the applicant.
 5. **Commissioner Calacino** [20:51:48](#) commented that in regard to the traffic study, he believed there was a reference about the site line distance and wanted to know if that was adequate. **Mr. Haight** replied that it was not. [20:52:24](#) **Commissioner Calacino** then asked Mr. Haight, based on the information now available, could the problem ever be mitigated sufficiently to be able to approve the project. [20:52:50](#) **Mr. Haight** advised that there are a number of intersections in Taylorsville and throughout the valley that are not perfect textbook intersections. There are site issues, intersections don't line up, etc. There is very limited site distance off 3200 West, however, there may be steps to take to mitigate that problem but this project is not there yet. He felt that 3200 West also poses the problem of inadequate drainage to get water off the road properly, however, that issue is being addressed separate from this particular project.
 6. **Commissioner Smith** wanted to know how many accidents have occurred at this intersection and **Mr. Haight** did not have those figures. [20:55:40](#)
- 10-5 **APPLICANT READDRESS: Joshua Pettit**. **Mr. Pettit** commented the applicants appreciated hearing about these concerns and said that is why they hired professionals to mitigate the problems. He advised applicants intend to address all issues and to make a project that will beautify the community. [20:56:45](#)

10.6 **DISCUSSION:**

1. **Commissioner Daniels** [20:57:01](#) made a statement to the neighbors in attendance who are concerned about the long term issue. When the Planning Commission makes a decision on such a petition, they have to look at factual testimony. The burden is on the petitioner to say this is a good use of that land. To answer the gentlemen's question as to how many petitioners does it take to get that to go away – one, with good factual evidence that it is not a good use of that land. [20:57:47](#)
2. **Commissioner Jensen** [20:57:52](#) said that part of the study that we have says that a recent change in State Statute required all conditional uses to be approved unless there is some negative impact on the community that cannot be mitigated. That is the first fact that the Commission must deal with. The second fact and biggest one for all is that the hill cannot be moved. The next fact is that sufficient ground cannot be added to it to make it work. In his opinion, the hill is the biggest mitigating factor and the biggest fact against this proposal. To make it safe, the road would need to be widened and to widen the road would require that the property in question be downsized and if that happened, the project could not be built. This is a situation that cannot be mitigated because the hill cannot be moved and the danger will always be there. [20:58:27](#).
3. **Commissioner Calacino** [20:59:09](#) felt this issue has been sufficiently discussed. The Commission is now in the position, based on new State Statute, to require further study to see if issues can or cannot be mitigated. There are several more points that need to be addressed by the applicant. It was pointed out by the City Engineer that the traffic study of a year ago was somewhat inadequate and he recommended it be revised. There may be a way to mitigate some of the factors, however, nothing has been brought before the Commission to resolve any of the issues. **Commissioner Calacino** was of the opinion that the redesign of the road would not happen in the foreseeable future.

- 10.7 **MOTION:** Commissioner Calacino 21:01:21 - I will make a motion to continue this item and add several elements, conditions and factors that the applicant needs to show can be mitigated before I would be comfortable granting any type of approval on this project. I would make a motion to continue this item based on information presented in the staff report, findings of fact and oral testimony. New information reflects that there might be some ways to mitigate potential impact of the development on the neighborhood, particularly with regard to traffic both ingress and egress and possibly with an access to 6200 South now, which was not considered previously. More buffering may need to be added to the site to protect the residents. Considerations for perhaps a different type of retaining wall may be needed or the space between the two retaining walls may need to be widened to keep any blow out of the walls from happening in the future. I have seen blow outs on properties where there has been a break in the water line and it eroded away and eventually the wall came down. I can see that happening, particularly if there is landscaping between the two walls. Maybe that needs to be addressed. There are issues pertaining to non-compliance with ordinances for building setback and inadequate buffering. We need to have continuation in order to have an updated traffic study that not only looks at the traffic count but safety issues for ingress/egress both from 6200 South and from 3200 West. Also to consider possible medians in both streets to reduce left hand turning movements from the site. I would like to see traffic counts from similar businesses and not just car washes in order to see if a car wash goes here what amount of generation it does in a day's time compared to a standard retail or standard office use. Maybe the number of cars going in and out for a car wash might be less than any other use that might be on there. Also any other thing that staff or the City Engineer can work out and present directly to the applicant and their consultants before this comes back. I would strongly encourage the City Council not to sell this property and consider making it green space but if they are determined to sell it, then I guess we will go through this process over and over until there is something subsequently built on that property.
- SECOND:** Commissioner Smith 21:03:44
- DISCUSSION:** Commissioner Overson - We have a motion to continue Item #35C05 until we can get more information. Commissioner Calacino - I would leave it to both Planning and Engineering Staffs at their discretion to put this back on the agenda when they believe that the issues of concern have been addressed to what they believe is adequate. That would include recommendations from both Planning and Engineering because right now we do not have positive recommendations from either of those departments. 21:04:30
- VOTE:** All Commissioners voted in favor. Motion passes unanimously.

11. 37C05 Prolifica LLC, Approximately 1300 West Winchester Drive (6685 South) - 22 Unit Planned Unit Development. (Preliminary) (Michael Maloy/City Planner)

21:15:15

11.1 **Mr. Maloy** oriented on the site plan, aerial map and images. Mr. Ronald Daw, Prolifica LLC, has requested preliminary approval to develop 22 attached single-family residential units on approximately 3.09 acres. The project is currently known as "Taylorsville Townhomes". Due to development objectives, the applicant has requested the project be permitted as a planned unit development (PUD) to allow flexibility in the application of zoning regulations. **Staff recommends preliminary approval with the following conditions:**

General Conditions

1. Receive approval from and remain compliant with all applicable reviewing agencies and departments of the City of Taylorsville (i.e., City Engineer, Uniform Fire Authority, Taylorsville-Bennion Improvement District, etc.).
2. Planning Commission shall review final conditional use permit application for planned unit development (PUD) to ensure compliance with all applicable zoning codes unless otherwise permitted by the PUD ordinance.
3. Applicant must combine existing lots into one parcel, compliant with City and County regulations.
4. Applicant is to calculate total net acreage of development after dedication of required public right-of-way along 1300 West and Winchester Street to verify compliance of requested development density with the attached zoning condition, which limits residential development to 11 units per acre maximum.
5. Applicant is to provide a comparison between the proposed PUD with the dwelling group regulations contained within the R-M Zone (i.e., open space, parking, minimum landscaping, etc.).
6. Applicant to provide a traffic engineering study to address the following:
 - City bicycle trail along 1300 West;

- Sight distance at point of access on Winchester Street;
 - Storage analysis on both points of access (Winchester and 1300 West) and at adjacent signalized intersection;
 - Visitor parking within project.
7. For "Technical Review" provide a soils report with information on slope stability, ground water, liquefaction, and recommendations regarding retaining walls (if any).

Site Elements

8. Applicant shall provide an open space plan that creates positive, usable open space, and shall contain amenities compliant with staff comments contained within the Staff Report or as otherwise directed by the Planning Commission (See Conditions #8 and #15). Open space plan shall be reviewed by the Planning Commission for final approval.
9. Applicant shall coordinate with City Staff a plan for all public and private improvements including streets, walkways and bicycle trails. Infrastructure improvement plan shall address off-site improvements if required by the City Engineer. Planning Commission shall review plan for final approval. (Note: City Engineer has suggested a meandering Type I bike trail along Winchester Street be included in site plan).
10. Applicant should propose an internal trail component to be reviewed by the Planning Commission.
11. Applicant shall provide an accurate, uniform street tree planting plan. Street trees should be planted 25 feet on center within all public park strips and along private roadways. Trees may be adjusted for water meters and driveways. Street trees should also account for location of street lights and fire hydrants.
12. Provide site lighting plan and with product specifications. Street light pattern should be equally staggered on both sides of the roadway and not linearly aligned on one side only. Concrete bases for street light poles should be minimally exposed.
13. Applicant shall submit for final approval a decorative sign plan compatible with site design and architecture. Sign plan should use a uniform design with Winchester Overlook.
14. For final review, provide a landscape plan designed by a professional landscape architect (or other experienced professional acceptable to staff). Landscape plan shall contain construction details, species type, locations, quantities and plant sizes. Applicant is required to select a mixture of plants to create variety and "seasonal colors" within plant beds. As an important element of the required open space plan, landscape plan should represent an exceptional level in quality and address maintenance of open space.
15. Building setbacks. House portion should not be any closer than 10' to the back of curb; buildings should not be closer than 15' between structures on the sides and should not have a rear yard any less than 20'.
16. Development is to incorporate a minimum driveway length of 18' when measured from back of curb to the front of the garage.
17. Design a centrally located common area to provide a gathering place for the community. Designated common area should not be less than at least 1,000 square feet in area.
18. Development will not be permitted as a gated community. Private roadway shall not be less than 25' wide when measured from back of curb to back of curb. However, the Planning Commission recommends that the street be at least 30' wide (measured from back of curb to back of curb) and built to City standards, in case of a future request to dedicate the private road to the City.
19. Provide a perimeter fence or wall plan along the west and south property line. Design of wall or fence must be consistent with Winchester Overlook project. Wall placement along 1300 West and Winchester is to be setback five feet from the property line to provide an area for landscaping along the streetscape and is to be positioned so as to not interfere with the required clear view area as required by the City Engineer. Provide location, height and fence material specifications to be used in development for final approval by the Planning Commission.
20. Submit plan for refuse collection (community dumpsters or individual garbage cans) for final site plan approval.

Architectural Elements

21. Coordinate with Signature Development refinements in building elevations to ensure compatibility of each project while allowing for architectural variety, which can be an asset to the community if properly planned and designed.
22. All utilities shall be screened from primary views either by fences or densely planted vegetation. Roof located vent stacks are to be screened or carefully located to minimize negative impact. Rear or hidden locations are preferable to easily viewable locations from adjacent roadways.

23. Except for decorative lighting such as porch lights or garage lanterns, lighting should be downward cast or oriented towards building architecture. Lighting plans should not utilize simple utility or flood lights.
24. Applicant shall submit for final approval product specifications on architectural details such as exterior lighting including street lights, house numbers, mail boxes, and as otherwise directed by the Planning Commission.
25. Preliminary material sample board should be refined for construction purposes prior to final approval; however, applicant shall maintain cement-based fibrous board or other similar paint-able lapped board as a primary fascia element. Stucco or similar products should be used sparingly (if any) due to construction problems and long-term maintenance.
26. Main entry should be a focal point of the front elevation. Exterior door and window details must be compatible with architectural design or vernacular.
27. Mitigate negative impacts caused by front loading garages by submitting for final approval specifications for an architectural grade garage door with windows (as shown).

11.2 **DISCUSSION:** Commissioner Calacino asked for staff clarification on a couple of points. (1) The setback from both 1300 West and Winchester to the unit, whether it backs or fronts on those streets, would have to be 25' to comply with the R-M Zoning. Mr. Maloy advised that the PUD ordinance states that there is to be a similar or matching setback when there is an adjacent existing residential development in the R-M Zone. In this case, there will eventually be an adjacent PUD which is not presently existing, so he was uncertain if that ordinance is applicable. Commissioner Calacino asked if it would apply if the setback for that development was 25'. He believed that the setback from Winchester and 1300 West was required to be 25', therefore, this one would need to comply if that is the case. This could conceivably greatly impact the design of the project. He had a question on the internal circulation wherein the radii and width of the internal roadways are not in compliance with the 25' width. So there is some design criteria that needs to be adjusted and readdressed. Mr. Maloy agreed indicating that those design requirements came at the conditional review under the Signature Development project. [21:17:51](#) Mr. Maloy continued that Unit #19 didn't work very well as far as backing up into another unit. That was not addressed in the staff report and should be included in the conditional approval. He also noticed on the site plan there are a couple of units that instead of having a landscape island between a single car garage and a two car garage, it is just one large driveway (Units #13 and #14), and perhaps a landscape island should be added there to break up the amount of concrete. Commissioner Calacino's concern was that the design was creating basically a parking lot, which would be acceptable in a retail shopping center but not for people's homes. [21:19:24](#) Commissioner Overson asked if there were anyway to determine how many parking stalls would be needed. Mr. Maloy advised that under the ordinance the requirement is for two parking areas for each residential unit. There are 22 units, therefore, 44 parking spaces for residents is required, with allocations made for eight guest stalls. [21:20:08](#) Commissioner Bolton asked for clarification regarding the gate and Mr. Maloy advised that it would not be a gated community, however, they plan on putting in a gate for aesthetics but it would not be secured. [21:37:10](#)

11.2 **APPLICANT ADDRESS:** Jim Allred, Prolifica LLC. [21:21:10](#) addressed the issue of parking in the interior of the project by saying that they envision a pleasant space to be in and felt like facing the homes to the roads would be dangerous. Therefore they oriented the parking into the center space. They have also tried to incorporate a trail system that would be beneficial to both projects. He allowed they were amenable to installing a solid barrier fence, however, would like flexibility to open up portions of that. Mr. Allred said that the targeted potential buyer was empty nesters, 55 and older, with a price range around \$200,000.

- [21:25:17](#) Commissioner Rushton-Carlson expressed concern that there is very little green space and no place for children to play.
- [21:25:58](#) Commissioner Calacino would like the units facing Winchester, with access from the rear.
- [21:27:37](#) Commissioner Overson felt the development looks very stark, with so little green space and no play/gathering area included. She also would like to see some sort of trail system or walkway included.
- [21:28:28](#) Mr. Allred said that the green space and some sort of trail system have not been finalized yet. That they were not contemplating fronting the buildings towards Winchester. While they wanted to have this project blend in with Signature's development to the north, there still would be some definite differences between the two projects, especially in regard to lighting and landscaping.

11.3 **SPEAKING:** Commissioner Overson asked Mr. Jack Lucas for his opinion regarding this project. [21:32:10](#) Mr. Lucas said they want to work closely with Prolifica, especially regarding the trail system. There still needs to be some coordination regarding colors so that the two projects will blend harmoniously. He said that the units in his project would be priced higher than Prolifica's but that the mix would be compatible. He added that the masonry fence would be located along the east and west boundaries. [21:34:34](#) Mr. Maloy commented that the City Engineer mentioned to him that the dedicated right hand turn pocket on the corner northbound would require 12' right

of way dedication, which could impact the site plan regarding the trail system. The City Engineer may suggest a traffic study be conducted there as a condition of approval. [21:36:44](#)

11.4 **DISCUSSION AND OR MOTION:**

MOTION: [21:38:35](#) **Commissioner Calacino** - Now that this development is moving forward and we have seen the other one, I believe it is pertinent to have a traffic study done and it should address the potential need for a right hand turn out lane on Winchester approaching 1300 West. Even though this is a different development and is catering to a somewhat different demographic and different configuration, I believe it needs to work in harmony with the other development and comply with the same standards and conditions that were imposed on that. [21:39:44](#) If there is no other discussion, I will make a motion that we grant preliminary approval subject to findings of fact, oral testimony, other evidence presented tonight and that the preliminary approval be based on the significant number of recommendations as outlined in staff's report. I would add a clarification that the building setbacks along Winchester and 1300 West will be 25' from property line and not 15' as shown on their plan. I would add clarification that the wall that surrounds the development will have a clear view on the corner that meets City ordinances and again it meets the abutting development where it is 5' back from property line to allow for landscaping. I am not opposed to having it jog in and out and having openings, which can be worked out with staff. I do believe it needs to be in harmony with the other development and be 5' back from property line to allow for landscaping. Of course, the home owners association will need to maintain it. Other than that, I would comment that I believe that developers need to work better together to make this a harmonious project. I don't see that happening. I don't see it will end up being that way. I hope that I am proven wrong in that. I believe the units should have a front façade facing the streets and we should not have a wall along there.

SECOND: [21:41:33](#) **Commissioner Daniels**

VOTE: All Commissioners voted in favor. Motion passes unanimously.

12. 38C05 **Annette K. Johnston, 2214 W. Whitaker Drive (5050 South)** - Animal Hobby Permit for Three Dogs. (Michael Maloy/City Planner)

[19:31:41](#) Heard out of order by motion.

12.1 **Mr. Maloy** oriented on the site plan, aerial map and images. **Mrs. Johnston** is requesting approval to license a total of three fairly large dogs at her residence, located in an R-1-8 single-family residential zone on a 10,359 square foot corner parcel. Applicant is providing temporary care for one other dog. [19:32:34](#) If one dog expires, is lost or adopted out, the applicant must leave the number of animals permitted at two. **Staff recommends approval based on the following findings of facts:**

- Applicant does not have a history of complaints or violations regarding animal related regulations.
- Request is consistent with previous applications approved by the Planning Commission.
- At time of publication of the Staff Report, staff has not received any public comment against the application.

Staff recommends the following conditions of approval:

1. Receive approval from and remain compliant with all requirements of applicable reviewing agencies (i.e., Salt Lake County Animal Services, Salt Lake Valley Health Department, etc.).
2. Applicant shall comply with all requirements of the animal hobby permit as stated within the City of Taylorsville Code of Ordinances, Title 8, animals.
3. All animals on premise must be properly vaccinated and licensed as required by Salt Lake County Animal Services, including animals within temporary care of the applicant upon the premise.
4. In the event that a dog is lost, expires, or is relocated from the home, the pet cannot be replaced by the applicant or other legal resident of the home if there remain two other dogs on the premises.
5. Conditional use permit is subject to review upon substantiated and unresolved complaint. Complaints which cannot be resolved by City Staff or Salt Lake County Animal Services personnel may be grounds for permit revocation.

- 12.2 **APPLICANT ADDRESS:** **Annette Johnston** was present. [19:33:32](#) **Ms. Johnston** said this request is the result of special circumstances in that the mother of the puppy could not nurse and it which now requires special care. [19:34:06](#) She will license the puppy if she receives approval from the

Commission. The animals remain inside except for bathroom breaks. She said as far as she knows, none of her neighbors have complained about her animals.

12.3 **SPEAKING:** None.

12.4 **DISCUSSION AND OR MOTION:**

MOTION: [19:37:11](#) **Commissioner Daniels** - I recommend approval for Application 38C05 in accordance with presented findings of fact, oral testimony and staff recommendations. I would like to place special emphasis on #3 that all animals on premises must be properly vaccinated and licensed as required by Salt Lake County Animal Services, including animals within temporary care of the applicant upon the premise.

SECOND: **Commissioner Calacino.**

Commissioner Overson repeated the motion, with emphasis placed on Staff Recommendation #3

VOTE: All Commissioners voted in favor. Motion passes unanimously.

ZONE CHANGE

13. 15Z05 <u>2-Ton Plumbing, 1638 West 6200 South</u> – Zone Change from A-1 to C-3. (Michael Maloy/City Planner)
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[21:42:21](#)

13.1 **Mr. Maloy** oriented on the site plan, aerial map and images. The owners of 2-Ton Plumbing have submitted an application to amend the Taylorsville Zoning Map for two contiguous parcels of property located at 1648 W. 6235 S. and 1648 W. 6200 S. The total area of both properties is .58 acres. The request is to amend the Taylorsville Zoning Map from A-1 Agricultural to C-3 Commercial for this property. The purpose for the request is to facilitate re-use of an existing red brick single-family residence located on the property as a plumbing contractor's office and storage yard. Staff does not feel the C-3 zone is an appropriate zone for this location. Based on the City Council's approval of the General Plan, staff recommends the change be for C-2 with zoning conditions attached. The suggested zoning conditions would be that all uses be conditional. That the uses within the zone be limited to professional office and contractor's office such as a plumbing shop with no outside storage. That the height of the structure be limited to 35' and no more than two stories. **Staff recommends approval with those zoning conditions.** [21:46:28](#)

DISCUSSION: **Commissioner Daniels** [21:47:28](#) asked if it were staff's opinion that the intended use by the applicant could be well served in the C-2 zone. **Mr. Maloy** advised that the C-2 zone lists Plumbing Shop as a conditional use. The C-3 zone lists it as a permitted use. [21:48:00](#) The difference being that the conditional use would require the applicant to come back before the Commission for that permit at that location. Essentially a design review, look at the landscaping, site plan, fencing, container storage, etc. This is an unusual intensity between Redwood Road and the commercial property that is being requested in a low density single family neighborhood. There probably will not be many areas in the City where that rapid of transition between commercial and residential is made. Therefore, in order to protect the adjacent residential neighborhood, the C-2 zone is more appropriate based on the General Plan that has been adopted and provide those additional protections for the neighborhood. [21:48:53](#)

13.2 **APPLICANT ADDRESS:** **Dan Remington and Greg Huntington.**

Mr. Remington advised that based on the support given to them by the City Council for the General Plan amendment, they felt this is a good fit in the area with what is allowed. There are a lot of easements on the property which limit the type of uses for the site. The parking area is built over the top of easements, which works nicely because no structures can be built over the top of those easements. [21:50:03](#). **Mr. Remington** felt that since their establishment is a service organization which responds to customer's homes, this would be a very low impact use. They would prefer C-3 because they felt it to be consistent with community commercial by definition and would be an excellent buffer. Their employees come to work, park their vehicles and leave in company vehicles before the influx of traffic and the office closes at 5:00 p.m. [21:55:07](#) He advised that through a contract with the City, they have been in business since April and have had no complaints filed against them.

Mr. Huntington [21:57:09](#) said they have a petition with over 60 names on it in favor of this application and have talked to the neighbors and businesses. The majority of those spoken with did not know this business was even in operation. The property has been extensively cleaned up and a fence installed as a buffer. The storage containers have been painted the same color as the fence in order to better blend in. He commented that there is

very little C-3 zoning in Taylorsville and asked for approval of this request. The easiest and fastest route right now is the permitted use under the C-3 zone.

DISCUSSION: Commissioner Overson 22:00:27 said the difference between C-2 and C-3 for the applicants is apparently to streamline the process and hurry it along. Mr. Huntington said that was part of it but they are putting money into upgrading the site and just would like approval of the use. 22:01:34 Commissioner Jensen advised that once the zone is on the property it stays there forever. 22:01:40 If this applicant moves, the zoning will still remain. Mr. Huntington advised that they do not plan on moving and looked at several smaller lots before making this decision. In the future they plan to build a mutually agreeable building on this site.

13.3 **SPEAKING:**

1. Rod Lambert. Mr. Lambert, who has lived north of this property for 18 years, was not in opposition to what they have done with the property, just to the change in the zone. 22:08:19 Several hearings at the County years ago with land speculators pushing their own agendas and the emerging compromise was the MD-3 zoning. To now zone this to C-3 could set an unwanted precedence.
2. Chet Nichols. 22:10:36. Mr. Nichols lives next door to Mr. Lambert and was generally supportive of his comments. He felt the covenants should be conducive to those businesses around it, high quality and high end. Of great concern is the type of landscaping proposed. He also suggested a different type of fencing rather than chain link with slats to blend in better with the residential area.
3. Mr. Maloy. 22:12:52 said the issue of signage was not addressed in his staff report and suggested it be included as a zoning condition in the motion.

13.4 **DISCUSSION AND OR MOTION:** Commissioner Calacino 22:13:38 felt the property should be MD-1 but that commercial zoning was obviously going to be pursued. If it is to be a commercial zone, then it should be conducive to the surrounding area and C-3 is too high. His opinion was that a C-2 zone would be more compatible, with certain zoning conditions. 22:15:13.

Commissioner Overson 22:15:58 expressed that 2-Ton Plumbing is a welcome addition to the community, however, that C-2 zoning would be preferential to the C-3 zoning.

- 13.5. **MOTION:** Commissioner Calacino 22:18:06 – I would make a motion that we recommend to the City Council to change the zoning on subject property from A-1 to C-2, not C-3 and that zoning conditions be added to that as follows: Uses be limited to office, minor ancillary to office such as storage or minor repair, construction, stock of product for a business such as a plumbing business which has to stock materials for their business. That the uses be conditional use review. That building height be limited to two stories but no greater than 35' and that a building setback be placed along the east property line at a minimum of 20' to buffer the residential use there. I make that recommendation based on the findings, testimony heard and reasons I have stated in my comments. A C-3 zone is inappropriate at this location. 22:19:25
- SECOND:** Commissioner Jensen. I will second that and make an amendment. I would like to add an amendment to that to limit signage to what would be appropriate for a professional office. Commissioner Calacino – That is acceptable. 22:19:42
- DISCUSSION:** Commissioner Daniels - Is it appropriate at this time to offer up a suggestion to the motion to limit the storage to indoor storage. Commissioner Calacino - That is acceptable. 22:20:04 Mr. Maloy - The zoning conditions specifically state that we can restrict the height of signs. For clarity, we need to actually put a number of that rather than saying consistent with the office professional zone, for example. Commissioner Calacino - I will add to the motion that the signage be no greater than a monument sign at a 6' high maximum, similar to the credit union sign directly across the street. 22:20:38
- Commissioner Overson - We have a motion to send a positive recommendation on File 15Z05 from A-1 Agricultural to C-2 with zoning conditions stated by Commissioner Calacino in his motion and including two subsequent amendments, with a second by Commissioner Jensen.
- VOTE:** All Commissioners voted in favor. Motion passes unanimously.

SUBDIVISIONS

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| 14. 6S05 <u>Tholen Custom Homes, 4996 South 1250 West</u> – Three-lot Subdivision Amendment.
(Final) Dan Udall/City Planner) |
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[19:57:55](#) (Heard out of agenda order by motion).

14.1 **Mr. Udall** oriented on the site plan, aerial map and images. The applicant is requesting to subdivide the above property into three deep lots accessed by a private road. **Staff recommends approval with the following conditions:** (NOTE: These conditions were the same conditions approved at the preliminary stage except Condition #10 and #11). **Mr. Udall** added #12 during the pre-meeting, that landscaping be maintained. [20:00:44](#)

1. Receive approval from and remain compliant with all applicable reviewing agencies.
2. That the subdivision receives final plat approval from City Staff.
3. That the subdivision is recorded by plat and that the plat complies with City Ordinance 12.16.010.
4. That any subdivision amendments proposed after the initial recordation are reviewed and approved by the Planning Commission. The amendment must then be recorded.
5. That the project receives storm drain approval from the City Engineer and pays the appropriate drain fees.
6. That any street lights should be installed if determined by the City Engineer. That the City Engineer should decide if curb and gutter is provided along both sides of the private road.
7. That each lot in the subdivision is reviewed by the Planning Commission as a deep lot.
8. That a vinyl 6' high fence is provided along the perimeter of the subdivision.
9. That the gross square footage of all the lots be provided on the final subdivision plat.
10. That 2" caliper trees are planted along the park strip every 25' on center.
11. That the private road is maintained and no parking is allowed along the road.
12. That landscaping be maintained

14.2 **APPLICANT ADDRESS:** **Sterling Tholen** was present. **Commissioner Smith** asked what type of trees would be planted and **Mr. Tholen** replied that it would be a type that would grow vertical rather than horizontal. He commented that the fence along the north side is 480' long and would look better with greenery along there rather than a fence, which would make it look like a tunnel. He asked that the fence not be a requirement in order to preserve the feeling of openness there. [20:03:55](#)

14.3 **SPEAKING:** None.

14.4 **DISCUSSION AND OR MOTION:** **Commissioner Calacino** asked if the perimeter fence was required per ordinance or did the Planning Commission place that requirement. **Mr. Udall** advised that it was a requirement placed by the Planning Commission.

MOTION: [20:05:33](#) **Commissioner Calacino** - I move to amend the subdivision approval to allow a 5' wide landscape strip along the north property line, reducing the pavement area of the right-of-way area from 25' to 20'. As to the fencing requirement along the south side of the drive, for the first approximately 170' I would recommend that maybe a solid 6' high fence be eliminated but some type of physical barrier, i.e., two rail fence or equal be put in place to distinguish between the right-of-way and the abutting property. That motion is based on the findings of fact, staff report and testimony received this evening. **Commissioner Overson** - Does that include Condition #12? **Commissioner Calacino** - All of staff's recommendations. [20:06:23](#)
SECOND: **Commissioner Rushton-Carlson**
VOTE: All Commissioners voted in favor. Motion passes unanimously.

15. 11S05 Eric Robinson, 6024 South 2200 West – In behalf of Dennis Morrill for a Two-lot Residential Subdivision. (Preliminary) (Michael Maloy/City Planner)
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[22:22:13](#)

15.1 **Mr. Maloy** oriented on the site plan, aerial map and images. Mr. Eric Robinson has submitted an application for preliminary review of a two-lot residential subdivision in an A-1 Agricultural Zone, which requires a minimum lot size of 10,000 square foot for a single family residence. Lot #1 will contain 28,700 square feet and will be accessed from the north via a private driveway connected to Surrey Road. Lot #2 will contain 22,764 square feet and will be accessed from the east via a private road from 2200 West. **Staff recommends approval of this subdivision with the following conditions:**

1. Applicant shall receive approval from and remain compliant with all applicable reviewing agencies of the City.
2. Subdivision application shall comply with all applicable City codes and development policies of the City of Taylorsville prior to recordation of proposed subdivision.
3. Applicant shall submit for engineering review contour drawings at 2' intervals, describing both the existing topography and the proposed grading for the subdivision development.
4. Applicant shall submit storm drain and grading plan along with storm drain calculations.
5. Applicant shall pay all required fees prior to final approval of the subdivision plat.
6. Planning Commission shall review final subdivision plans in a future public meeting pending compliance of proposed subdivision plans with City of Taylorsville Engineering requirements and development policies.
7. Other conditions as deemed appropriate by the Planning Commission.

[Added by Motion] That the developer dedicates right of way based on the City Street Master Plan.

DISCUSSION: **Mr. Maloy** advised that the most significant element of this project that has been discussed is access and the issue of whether or not dedication and public improvements were required by the current code. [22:23:32](#). Staff communicated those concerns with the applicant from the beginning. It was their choice to submit a simple subdivision plan. It was staff's recommendation to them that they needed to submit a regular subdivision application, but they chose otherwise. Having received the simple subdivision application, staff researched a number of applicable ordinance references that require that the road be connected between 2200 West and Surrey Road. Staff is aware of the concerns this creates because the majority of adjacent residents want to keep the road a dead end. [22:24:18](#) Some property owners, however, would like to see it connected. Staff is saying that where the current street master plan of the City shows that these two streets should connect, that it is appropriate to require that connection at this point in time as part of this subdivision approval. Staff is recommending approval but essentially the application needs to become a regular subdivision application and would be required to construct essentially half of the street required under the Street Master Plan of the City. [22:25:06](#) **Commissioner Overson** expressed that she was not clear on the recommendations. She understood that this should be approved as a regular subdivision with the connecting road. **Mr. Maloy** advised that the conditions stated were that the applicant would need to submit engineering plans for approval, with the requirement for dedication of half of a right-of-way and improvement thereof or bonding. If the Commission needs to clarify that issue, that can be done through language in the motion. [22:26:11](#)

15.2 **APPLICANT ADDRESS:** **Eric Robinson.** [22:26:51](#). **Mr. Robinson** advised he had a few issues to address. They are asking for a private right of way accessing the two half acre lots, which he felt fits within the exceptions outlined in the ordinances referenced in the staff report. He commented that based on Mr. Maloy's comments in the staff report, it was unclear to him what the reason for denial was based upon. **Mr. Maloy** advised (Ref Title 12 Subdivisions, Chapter 12.08.030: Exceptions; Final Plat: Para B). "The subdivision is not traversed by the mapped lines of a proposed street as shown on the official map or maps of the City or other Planning Commission studies . . . So any and all road maps. **Mr. Robinson** said that based on that, Dennis Morrill then only owns half of the property available to construct a road. The realities are what a half a road is going to look like. [22:28:40](#). The Johnson's, who own the property to the northeast, have their house up for sale, therefore, it is possible that property could be subdivided. **Mr. Robinson** had looked into the possibility of purchasing that but found that was not feasible. In fact felt that property would never actually be developed, so the road will never be constructed and there will just end up being a half a road and a sidewalk, for no logical purpose. He still feels like his development fits within the private road exceptions. The only available ordinances are that the proposed road is shown on City maps and he felt it was self-serving that a City can require dedication based solely on proposed lines they had placed themselves. The applicant applied under the simple subdivision ordinance. He had received information relative to applying under the regular subdivision ordinance at the Development Review Committee meeting on this proposal and found it to be based solely on public dedication. There was no mention then and this is the first time the applicant said he had seen mapped lines across this parcel and area. However, he wanted to point out in the staff report, page 3, subsection B, which states, "The subdivision is not traversed by the mapped lines" **Mr. Robinson** said that currently their subdivision is not traversed by lines. The circumstance is that there is only one line traversing the subdivision. There are not multiple lines and there cannot be a road built as it stands. He pointed out that the Commission that they should not be different than any other developer. [22:31:44](#) The Utah and United States Constitution and Utah Case Law require for any development exaction or dedication, a reasonable relationship to the need created by the subdivision, cited in Call versus the City of West Jordan, Banberry Development Corp versus South Jordan City, also Bowen versus the City of Tigger, which set forth a rough proportionality test by the Supreme Court saying the City must show an essential nexus between the legitimate State Interest and the land dedication requirement. The applicant believes the burden on them to build, dedicate and build a half a road is greater than the burden the subdivision will create on the community. Furthermore the applicant has proposed to do whatever the City would like with the drainage problems. The elevation problems at the end of Surrey Road and at the catch basin at 2200 West, Mr. Haight, City Engineer, has made comment that he has seen water run up hill. If

the City would like to come in, the applicant would be willing to grant any easement available to resolve the drainage problems. [22:33:03](#) Furthermore, even if they do not fit within the simple subdivision ordinance, which the applicant believes they do because they are not traversed by mapped lines, they believe they fit within the exception found in 12.08.020, Exceptions Permitted, which states: "In cases where unusual topographic, aesthetics or other exceptional conditions, exist for the welfare, best interest and safety of the general public will be usefully served or protected, variations and exceptions of this title, Title 12, may be made by the Mayor, after recommendations of the Planning Commission. " [22:33:28](#) **Mr. Robinson** continued that they are willing to work with the City to solve the drainage problems and solve any other problems the City can point out, however, they were not willing to build half a road and have it sit on the property for an unknown period of time. **Mr. Robinson** felt it was feasible for the given project, not feasible for the property and requested that the Commission approve the project. [22:34:31](#)

15.3 **SPEAKING:**

1. **Robert Herman** - [22:37:48](#) He asked if there ever was a road connecting Surrey Road to 2200 West and was informed by neighbors there was not. He then mentioned he has a problem with that property being a dead end and felt it should have access from Surrey Road to 2200 West but not for the purpose of developing a property but rather for public access for the neighborhood. [22:38:54](#)
2. **Priddy Osegura** [22:39:22](#) - She has been a resident in this area for 32 years and would love to see the property improved. That there has always been a problem with weeds and it would serve everyone well for something to be built on it. [22:40:06](#) She advised that there has always been problems with drainage in this area. Mr. Morrill built a dike that abuts her property, which has compounded the drainage problem. She considered the dike to be a hazard for the children, especially when it rains and ponds up. [22:40:58](#) This proposal does not address the drainage. **Mrs. Osegura** preferred to have a private road but was concerned that if there ever were a catastrophic event, they would be trapped back there and felt that was a health and safety issue for the neighborhood which should be dealt with first. [22:44:54](#)
3. **Zach Vanderlinden, 2295 W. Surrey Road.** [22:45:26](#) **Mr. Vanderlinden** advised that he had always walked to and from school and never saw any health and safety issues because it was a dead end. He signed the petition in support of this proposal because he was satisfied with the area it is.
4. **Richard Johnson.** [22:47:48](#) **Mr. Johnson** lives directly north of this property. He said that the pond Mrs. Osegura talked about is the run off water from Saddle Way which is directly south and is definitely a big problem. He agreed that the flood issue is high priority. He was neither in favor nor against this project, just wanted the flood issues taken care of first. Salt Lake County was notified of the problem and they proposed to join 2200 West and Surrey Road because the school has owned property directly east of the Morrill property. The County felt the road should go through if they decided to build a school on their property, however, they decided to build the Calvin Smith Elementary School on 6200 South instead. Therefore, it was their opinion at that time that the road did not need to go through because there is adequate access down Saddle Way which adjoins Surrey Road. The County also stated that if this property were ever developed, there would need to be a cul-de-sac.
5. **Tom Rice.** [22:53:15](#) **Mr. Rice** lives directly east of the development. He is against the proposal because he felt it would impact his home and devalue his property. He is also against opening up the road to through traffic. However, if that does happen, it needs to be done by code with correct setbacks and width, needs to include sidewalks, curbs and gutters which are paid for by the person who is eventually receiving the financial gain from this, which is the present property owners. [22:54:27](#).
6. **Art Vanderlinden.** [22:55:06](#) **Mr. Vandelinden** commented that the main reason he purchased his property was because of the dead end location. He was not against the development of Morrill's property, just against opening up the road. The road in front of those homes is private now and should remain that way.
7. **Dendra Player.** [22:56:11](#) **Mrs. Player**'s concern was the impact on property values. She indicated they have already had a difficult time getting a good appraisal because of where their property is located. She had no objection with the applicants accessing off 2200 West, in fact she had asked the County to do that years ago and they said it would not be opened. She expressed concern that there is no plan in place for evacuation in the event of emergency but felt people cannot leave in fear of what could possibly happen in the future. [22:57:38](#).

8. **Dan Osegura**. [22:59:29](#) **Mr. Osegura** said the problem with the drainage is further impacted by snakes and mosquitos which are drawn to the standing water created by Mr. Morrill's dike. He was concerned about someone possibly drowning there. [23:00:52](#)
9. **Scott Lundberg**. [23:01:54](#) **Mr. Lundberg** lives next to Mr. Rice. **Mr. Lundberg** commented that he had only heard one person say they want that road to go through and he was supportive of leaving it as is. He advised that is no legal basis or compelling reason to hold up the applicants because of dedication of the road.
10. **Connie Johnson**. [23:03:51](#) **Mrs. Johnson** lives directly across from Morrill's property. She advised that in 1993 they had gone before the County and fought having the road go through. It was decided at that time that if Mr. Morrill decided to subdivide, they would do a cul-de-sac at the end of 2200 West for a turn around. There was nothing ever said about connecting the roads. She would fight strongly against opening the road and was supportive of the cul-de-sac alternative.
11. **Abel Osegura**. [23:05:33](#) **Mr. Osegura** asked that something be done about the drainage problem in the area. They have been asking for help with that for years and nothing has been done. He asked that the City follow their code and put in a decent drainage system and make everybody happy.
12. **Mark Johnson**. [23:07:05](#) **Mr. Johnson** felt that the Commissioners should be supportive of the majority of people who have spoken tonight as not being in favor of having the road go through and approve an alternative design without that requirement.

15.4 **DISCUSSION AND OR MOTION:**

1. **Commissioner Overson** asked Mr. Haight (City Engineer) about the drainage issue. **Mr. Haight** replied that he had first become aware of this a couple of months ago when the Oseguras called about it. There is a drainage problem. The Oseguras wanted to know what the City intended to do about the problem and Mr. Haight had informed them that he was waiting to see the outcome of tonight's meeting with regard to Mr. Robinson's proposal. He was hopeful that a solution would be in place prior to the beginning of Winter.
2. **Commissioner Calacino** advised he believes that streets should connect and that there should be more pedestrian connectivity between schools. [23:12:51](#) He felt the County may have done a disservice with their decision not to make the street go through.
3. [23:14:32](#) **Commissioner Rushton-Carlson** felt that the Morrill's should be able to develop their property as they see fit and the Commissioners should listen to the neighbors in wanting to continue to enjoy their peaceful existence
4. [23:15:22](#) **Commissioner Jensen** asked if this road would qualify as a cul-de-sac under today's ordinance as it is currently constructed. [23:15:35](#) **Mr. Maloy** advised that it would not, that a cul-de-sac would need to have a diameter of 80'. If the City Street Master Plan was amended, there would need to be two cul-de-sacs one on 2200 West and one on Surrey Road, which would still require the applicant to dedicate property for construction of the cul-de-sacs. **Commissioner Jensen** asked if the length of the proposed road from where Surrey begins to where it joins the other street would be short enough to allow a cul-de-sac. **Mr. Maloy** advised that refers to Fire Department standard, where anything over 150' in length requires a turn around. Staff is not stating that the road needs to be built exclusively based on the Fire Department standard but including the adopted City Street Master Plan which shows that connection. If the elected officials wish to change that street plan, that is their prerogative. **Commissioner Jensen** asked what would be involved with putting a cul-de-sac on 2200 West and **Mr. Maloy** replied either there would be a dedication and improvement or dedication and a bond. There is a possibility of deferring improvements until the rest of the property is acquired through further subdivision, so there are some options. [23:17:27](#) **Commissioner Jensen** added that as it is now, it could not legally stand on its own as a cul-de-sac, to which, **Mr. Maloy** agreed.
5. **Commissioner Overson** advised she had been to the property several times and had personally noticed the drainage issues at the end of Surrey Road. [23:18:44](#)
6. **Commissioner Calacino** commented that he had personally observed that Saddle Way bears the brunt of traffic in this area and would be interested in seeing a traffic study because he felt the community is not being served. [23:19:11](#)

7. **Commissioner Overson** said the Commission's options are to approve this, continue it or deny it.
8. **Commissioner Daniels** said he leaned towards approval because he believes that the property owner should have the right and privilege to build on their property. [23:20:30](#) He did not feel it was necessarily the responsibility of that property owner to bear the cost or burden of building a road or even half a road but at the same time he indicated he was in agreement with others who believe that there should be some connectivity there. Not necessarily a four or six lane highway but a way for ingress/egress in and out of those neighborhoods. He felt that the municipality should bear part of that improvement process, be it roads, cleaning up the drainage area. He felt that was part of what is owed to the community.
9. **Mr. Maloy** addressed the Chair saying that he had clearly laid out in the staff report what the City Ordinance is with regard to these issues. [23:21:28](#) If there is disagreement with the ordinances, then a change needs to be with the ordinance. However, as it stands, if the improvements do not exist at the time of the subdivision, it is the subdivider's responsibility. **Mr. Maloy** indicated that if there is a misunderstanding of what the ordinance says, he would be glad to make that clarification.
10. [23:21:56](#). **Commissioner Daniels** said that there is more than one problem in the area. Some people do not feel the lack of a defined road is a problem. A double cul-de-sac might be the answer but he did not feel it was the responsibility of the developer to bear that cost. He was also uncertain as to whose responsibility it was to fix the drainage problems. [23:23:18](#) **Mr. Maloy** said that the responsibility of the developer is to follow the law. The law clearly states that if the improvements are not there according to the master plan for streets, it is their responsibility to make those improvements. Staff does agree that requiring a full width road at this point in time is excessive. It would require the applicant to acquire additional property that he doesn't control. The City is not anxious to condemn private property. Over time, there will be changes in the neighborhood. When a piece of property is subdivided, the developer creates value. Part of that value is the public improvements. If the City wants to amend the Streets Master Plan and have cul-de-sacs, if that is the desire of this community, that needs to happen, however, at this point, some of that cost of improvement would fall on this applicant if it goes forward. It is not the responsibility of the City to build roads for the benefit of private individuals; it is, however, the responsibility of the developer. [23:23:58](#)
- 15.5 **MOTION: 23:24:43 Commissioner Jensen - Based on the findings of fact from staff which clearly state the responsibilities and based on the fact that all developers have the responsibility to provide public improvements for the benefit of the public as a whole, I move for approval of File #11S05 with the additional condition that the developer dedicates the public right-of-way as required by the City Street Master Plan. 23:25:14**
SECOND: Commissioner Calacino
Commissioner Overson 23:25:16 - We have a motion to approve File 11S05 with staff recommendations, including Recommendation #8 that the developer dedicates right of way based on the City Street Master Plan. There is a second by Commissioner Calacino.
VOTE: Commissioner Daniels AYE Commissioner Smith AYE
Commissioner Calacino AYE Commissioner Jensen AYE
Commissioner Overson AYE Commissioner Bolton AYE
Commissioner Rushton-Carlson NAY Motion passes 6 to 1.

DEEP LOT

16.	1D05	<u>Gary Gilgen, 5722 South Jordan Canal Road</u> – One Deep Lot (Final) (Michael Maloy/City Planner)
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[19:38:56](#) (Heard out of Agenda order by motion).

16.1 **Mr. Maloy** oriented on the site plan, aerial map and images. Mr. Gilgen is seeking approval in order to construct a single-family residence. The property fronts on a private road and contains 20,224 square feet (.464 acre). The applicant appeared before the Board of Adjustment and their approval stated Mr. Gilgen must receive deep lot approval. Staff has concerns about the garage doors facing west. [19:40:45](#) The applicant is proposing two drive approaches off of the private road separated by a 35' landscape island. The applicant is showing a 600 square foot attic bedroom for guest usage. If the space were removed from the attic space, it would not reduce the height of the structure. Generally when structures are required to be single level, the thinking is along the line of insuring privacy. Where the dormer space is towards the east and away from the private residences on the lane, Staff is not

sure how this would be interpreted – should it be counted as a second story and therefore not allowed under the Board of Adjustment ruling or if this use meets the intent of that ruling, which is to preserve usage and privacy issues. On the garage, staff is of the opinion that this type of elevation is unusual for the neighborhood with such a prominent garage element to the front of the home. Staff suggested to the applicant that perhaps one of the bays could be oriented towards the north around the corner and comply with all the drive approach regulations of the City. Admittedly, that would have a significant impact on the floor plan for the applicant. The applicant is resistant to that suggestion. **Staff recommends preliminary approval with the following conditions:**

1. Receive approval from all applicable agencies of the City such as the Unified Fire Authority, Building Division, etc.
2. Amend building design to mitigate impact of prominent garage doors, which are not architecturally compatible with “the rest of the dwellings on the private lane.” Amended design should include reorientation of (two or three) garage doors to the north building façade and elimination of the circular driveway. Whereas the property is located on a “corner”, a second drive approach can be included from adjacent sides on the private lane.
3. Under direction of the Planning Commission, staff shall administrate final review of application.

16.2 **APPLICANT ADDRESS:** **Gary Gilgen** was present. [19:43:22](#) **Mr. Gilgen** advised that he owns several cars and would like to keep them within a garage. He had read staff’s recommendations, including the one to move the two large doors to the side of the house. He still would need a horseshoe driveway to access the garage. He considers this structure to be one level and felt he has the property right to build his home with the design he wants. He asked that he be allowed to proceed with this structure as proposed. [19:46:42](#) **Commissioner Jensen** asked how far it was from the finished floor of the dormer down to grade and **Mr. Gilgen** informed him it was 9 or 10 feet. **Commissioner Daniels** expressed concern about the privacy issue for neighbors with the view from the attic bedroom.

16.3 **SPEAKING:** [19:49:56](#) **Keith Huff** said that his home is directly across the street and he was concerned about the aesthetics of having that many garage doors face the street.

16.4 **CLOSED FOR DISCUSSION AND OR MOTION:** [19:51:19](#) **Commissioner Jensen** discussed the conditions applied by the Board of Adjustment which stated that the parcel should be developed as a single story structure. By way of clarification he referred to Subsection 13.04.505, Definition of Story, under the Zoning Ordinance. He wanted that included as part of the motion. [19:51:51](#) It states in part that “If the finished floor level directly above the usable or unused under floor space is more than 6’ above grade for more than 50% of the total perimeter or is more than 12’ above grade at any point, such usable or unused under floor space shall be considered as a story.” The applicant has stated that it is approximately 9’. Staff should define if this is a two story structure or not. [19:52:56](#). Commissioner Jensen’s intent is to make sure the Commission is in compliance with the Board of Adjustment ruling on this application. [19:53:34](#) **Commissioner Calacino** said that the floor of that area doesn’t exceed 12’ from finished grade and it is above 6’ high but not for 50% of the perimeter, therefore, it would not qualify as a story. **Commissioner Overson** felt that if the roof line does not change, whether or nor there is a dormer, it would be considered to be one story. [19:54:04](#) **Mr. Maloy** commented on the driveway issue that the City regulation on that says basically a single family residence may have one drive approach. If it is on a corner, there may be one drive approach on each corner but the ordinance does not appear to allow a circular drive approach on one side and a third drive approach around the corner. The applicant would have to turn all three garages unless it is served by one drive approach.

16.5 **MOTION:** [19:55:24](#) **Commissioner Calacino** - I would make a motion that we approve it as is, based on findings of fact, testimony heard this evening and recommendations in the staff report. [19:55:34](#) **Commissioner Jensen** - I would like to see staff read the ordinance and see if it defines the issue of “story” further. **Mr. Maloy** - We were reviewing that reference during this meeting and I would agree it does not meet the definition of a story based on that. **Commissioner Jensen** - Then staff is okay with including the dormer? **Mr. Maloy** - Yes. **Commissioner Daniels** - Madam Chair, could we get a second before we discuss this further? [19:56:08](#) **Commissioner Overson** - Thank you. We have a motion to approve File #1D05 – do we have a second?

SECOND: **Commissioner Smith**

DISCUSSION: [19:56:37](#) **Commissioner Smith** – I would suggest that the applicant puts the large garages to the side of the home. **Commissioner Overson** - That is not what the motion was. **Commissioner Calacino** - I will accept that as an amendment though. **Commissioner Overson** - The amended motion is to approve File 1D05 with the rotation of the RV garages, with a second by Commissioner Smith. **Commissioner Jensen** [19:57:01](#) - I would also like to state that the definition of story allows this to comply with the single story requirement and

still have the dormers. [Commissioner Overson](#) - Thank you for that clarification. We have a motion and a second to approve File 1D05.

VOTE: All Commissioners voted in favor. Motion passes unanimously.

SPECIAL ITEM

- | |
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| 17. 1SI05 <u>Angela Dozier (Settler's Place), 4770 South Simmental Way (1490 West)</u> - (Dan Udall/City Planner) |
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[23:26:36](#)

17.1 **Mr. Udall** oriented on the site plan, aerial map and images. The existing monument sign is located at an apartment complex and is 6' high to the top of the cap. The square footage of the sign without the existing brick embellishment is approximately 46 square feet. The monument sign meets City code, except the sign is located in the clear view of an intersection. The applicant would like to refurbish the sign with additional brick embellishment, however, the Planning Commission must approve the sign being in the clear view area. **Staff could not recommend approval of the application because of the potential liability. If the Commission decides to approve this application, Staff recommends the following conditions:**

1. That the applicant receives a building permit to upgrade the existing sign.
2. That the brick embellishment will not block additional visibility at the intersection.

DISCUSSION: [23:32:17](#) **Commissioner Daniels** wondered if nothing was done and if the petition was denied would it just remain as is at the same location. **Mr. Udall** advised that was correct. **Commissioner Rushton-Carlson** added that the applicant has the option to move the monument sign out of the clear view area and still have similar signage. **Commissioner Smith** advised he had gone to this location and found the sign where located now does obstruct the view. [23:33:18](#) **Commissioner Calacino** asked if the side street were a public or private street and Mr. Udall advised that it was public.

[23:34:11](#)

17.2 **APPLICANT ADDRESS:** **Angela Dozier**. **Mrs. Dozier** stated that the owners of the apartment complex just wanted to make the sign look better. They are in the process of upgrading the property under new management which included in the plans the refurbishing of the present signage. **Commissioner Jensen** asked her if there were room enough to relocate the sign further back out of the clear view area and **Mrs. Dozier** advised that the owners would probably not be willing to do that because it then would not be visible from the roadway. [23:35:20](#) **Commissioner Jensen** indicated that the Planning Commission has to look at the liability issue and asked if the owners would be open to any alternatives? [23:35:47](#) **Mrs. Dozier** said the property owners would be willing to look at alternatives within their means that would still achieve the purpose of the signage. She felt that most of the sight problems are created by the cars that park out 4700 South.

17.3 **SPEAKING:** None.

17.4 **DISCUSSION AND OR MOTION:**

17.5 **MOTION:** [23:38:09](#) **Commissioner Daniels** - I would move that we deny the petition with a strong recommendation for the petitioner to come back with a better plan.
SECOND: [23:38:24](#) **Commissioner Calacino**.
Commissioner Overson - We have a motion to deny Application 1SI05 by Commissioner Daniels with a second by Commissioner Calacino.
VOTE: All Commissioners voted in favor. Motion passes unanimously.

OTHER BUSINESS:

- **Commissioner Jensen** asked to go back to Agenda #9 (Later corrected to read Agenda #16. He was concerned if it met the definition for a one story building or not. He felt like the upper floor means anything from the roof or ceiling down to the next finished floor and if there is anything below that between 5' and 6' above grade that is usable, is another story level. According to his interpretation a dormer implies a multi-story home or a two-story home, therefore, he felt the Planning Commission ruling may have gone against the Board of Adjustment decision on allowing the applicant to have only a one story structure. He asked for an opinion from Mr. McGrath on this issue. [23:39:49](#)

- **Mr. McGrath** said that as he understood it, the Board of Adjustment ruling said the structure could only be one story. There is a dormer on the back of the house that doesn't increase the overall height of the building but there is technically living space up there. Commissioner Jensen's question is did the Planning Commission violate the ruling of the Board of Adjustment by allowing that based on the definition, which he felt did happen.
- **Commissioner Calacino** read a section of the Board of Adjustment rules for granting variances as follows: "The Board may impose additional requirements on the applicant that will mitigate any harmful effect of the variance or serve the purpose of the standard or requirement that is waived or modified." He continued on to say, as he understood it, the Board made a variance to the lot size. Therefore, felt the height of the building was not relative to the Commission decision. **Mr. McGrath** added that he was not at the Board of Adjustment meeting and did not know if their thinking was that a smaller lot was being introduced into this neighborhood and density may have been an issue. It may or may not have been based on some public clamor in the meeting.
- **Commissioner Overson** stated her opinion as being whether it is one story or two story, in her mind she would still have voted the same because the roof line didn't change and she had no problem with the attic room. It was her understanding that if someone wants to change their vote, it must happen before the end of this meeting. **Commissioner Daniels** said the meeting can be closed to discuss whether or not the Commission wants to change and go to a vote on whether not the issue is put to another vote and it would have to carry with a majority vote. **Commissioner Overson** said then that it sounds like the Commission needs to entertain a motion.
- **Commissioner Jensen** said that the policies and procedures for the Planning Commission includes the option to reconsider, which allows the Chair and the Community Development Director to get together and decide whether an item is worthy of reconsideration based on new evidences or facts. If they go back to the Board of Adjustment Minutes and find that there is legitimate basis to the requirement for one story, the policies and procedures give them the power to reconsider the issue.
- **Commissioner Overson** commented that there would still need to be a motion to reconsider this agenda item. **Commissioner Jensen** read from the policies and procedures - "To recall a previous motion for further evaluation and/or action, a motion of reconsideration must be made by a Commissioner who voted with the majority. The motion to reconsider must pass with a majority vote. If the motion to reconsider is not approved, the former motion will stand as previously approved. If the motion to reconsider is accepted, the former motion may be amended and debated and then put to a formal vote. Motions to reconsider a previous motion must take place during the same meeting the motion was made."
- **Commissioner Overson** said then she was looking for a motion to reconsider Item #16, deep lot, Application 1D05.
- **MOTION: 23:50:58 Commissioner Jensen - Since I voted in the majority, I will make a motion to reconsider Item #16 on the Agenda, 1D05, in the event that staff and the Chair agree that it is deserving of reconsideration.**
SECOND: Commissioner Calacino.
Commissioner Overson - We have a motion by Commissioner Jensen to reconsider Agenda Item #16 and a second by Commissioner Calacino.

VOTE:	Commissioner Daniels	NAY	Commissioner Smith	NAY
	Commissioner Calacino	NAY	Commissioner Jensen	AYE
	Commissioner Overson	NAY	Commissioner Bolton	NAY
	Commissioner Rushton-Carlson	NAY.	Motion fails 6 to 1.	

- **Review of City Council meeting.** **Commissioner Jensen** briefed the Commission on what transpired during the last City Council meeting.

NEW BUSINESS: **Commissioner Jensen** submitted a list of items he would like discussed at future meetings for the Commission to review. He discussed some of the items and **Commissioner Overson** thanked Commissioner Jensen and advised that the list would be divided up for discussion between future work sessions.

ADJOURNMENT: **00:05:26** By motion of **Commissioner Calacino** and second by **Commissioner Smith**, the meeting was adjourned at 12.05 a.m.

Respectfully submitted by:

Jean Gallegos, Administrative Assistant to
The Planning Commission

Approved in meeting held on October 11, 2005